

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

S.B. CIVIL WRIT PETITION NO. 2200/2005
(Suraj Singh Vs. The Judge Labour Court, Bikaner & Anr.)

Date of Order : 13/02/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Devendra Singh Dev for the petitioner.
None present for the contesting respondent No.2.

BY THE COURT:-

No one appears for the contesting respondent No.2 though served. The matter was called in the first round, no one appeared for the respondent. The matter was again taken up in the second round, but even in the second round also no one appeared for the respondent.

By the instant writ petition under Article 226 & 227 of the Constitution of India, the petitioner has challenged the award dated 4.9.2001 (Annex.P-6) passed by respondent No.1 Labour Court by which the the labour court passed "No Dispute Award".

It is contended by learned counsel for the petitioner that a reference was made to the respondent No.1 by the State

Government under Section 10 of the Industrial Disputes Act, 1947 which reads as under :-

"क्या प्रबंध संचालक उरमूल डेयरी गंगानगर रोड बीकानेर द्वारा कर्मचारी सूरजसिंह आपरेटर ग्रेड (जिसका प्रतिनिधित्व उपाध्यक्ष उरमूल डेयरी कर्मचारी यूनियन बीकानेर ने किया है) को दिनांक 28.12.96 के आदेश के द्वारा पे स्टेपिंग के लाभ को निरस्त करना उचित एवम वैध है ? यदि नहीं तो श्रमिक किस राहत एवं राशि के पाने का अधिकारी है ? "

The claim could not be filed by the petitioner workman because he was transferred from Bikaner to Lunkaransar and meanwhile, the petitioner came to know that reference has been made to the labour Court and he appeared before the labour Court, but by the time, the labour Court passed the award. The petitioner therefore, requested the labour Court to restore the reference by moving a restoration application, which also came to be dismissed by the respondent No.1.

Counsel for the petitioner has relied on a Division Bench decision of this Court in Pappu Ram Vs. The Labour Court, Jodhpur and Anr. D.B.Civil Special Appeal No. 300/2004 decided on 24.1.2005, whereby this Court held that a Tribunal cannot answer an award made by appropriate government under Section 10 (1)(c) in the name of no industrial dispute award relying on a decision of Hon'ble Supreme Court in Premier Automobiles Ltd. Vs. Kamlakar Shantaram Wader & Ors. AIR 1975 SC 2238. Thus, the controversy stands concluded by the

Division Bench decision of this Court in Pappu Ram Vs. The Labour Court, Jodhpur and Anr. (supra) and therefore, in my view, the award impugned deserves to be set aside and the matter deserves to be remanded to the labour Court to answer the reference in accordance with law.

In the result, the writ petition is allowed. The "no dispute award" dated 4.9.2001 Annex.P-6 and the order dated 20.9.2004 Annex.P-9 are quashed and set aside and the matter is remanded to the labour Court to hear the reference on merit. Stay petition also stands disposed of. There shall be no order as to costs.

(H.R.PANWAR),J.

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